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Attorneys for Defendants
 Lee's General Toys, Inc., and
 John Lee

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

CASE. NO. 07 CV 2391
 (JAH POR)

 GEORGIA-PACIFIC CONSUMER
 PRODUCTS LP, a Delaware limited
 partnership,

Plaintiff,

vs.

)
) DECLARATION OF
) RON MARTINETTI
) OPPOSING PLAINTIFF'S
) EX PARTE APPLICATION
) FOR EXPEDITED
) DISCOVERY

LEE'S GENERAL TOYS, INC., a California
 corporation, JOHN LEE, an individual; and
 DOES 1-10,

Defendants.

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DECLARATION OF RON MARTINETTI OPPOSING PLAINTIFF GEORGIA-
PACIFIC'S APPLICATION FOR EXPEDITED DISCOVERY

I, Ron Martinetti, declare:

1. I represent Defendant Lee's General Toys and Defendant John Lee in the present matter.

2. On January 29, 2008 this Court entered an order denying Plaintiff's request for a TRO. This denial was entered after both parties briefed the matter and presented oral argument.

3. Defendant Lee's General Toys has voluntarily agreed to stop selling, distributing, importing Angelite tissue paper until this case is fully resolved. The Court was informed of this at the TRO. Mr. John Lee took this step even though he received a California trademark in 2003 for Angelite--and Plaintiff failed to file any lawsuit for almost five years. A copy of the California trademark was filed with the Court.

4. Defendant John Lee removed the outer wrapping of 59, 520 Angelite bathroom tissues and destroyed the wrappings. (Exhibit 1, Declaration of J. Lee, filed in connection with the TRO) This number represented the entire amount of Angelite tissue in stock, and Defendant has no further orders from China. (Exhibit 1, par. 3)

5. Further, Defendants have been voluntarily cooperating with Plaintiff even though there has not yet been a first meeting of counsel. Defendants have provided the names of all the distributors (Exhibit 2, letter from RM to AW, dated Jan. 25), the total number of rolls sold (233,280) and value of the six containers that constituted the entire inventory (Exhibit 2). The total number of rolls in the six containers were 292,800.

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1 6. Further, I have informed Plaintiff's counsel that my client
2 applied for a federal trademark in 2003 for Angelite--and then
3 abandoned the effort. Also, I have informed Plaintiff's counsel
4 that at present my client has another trademark for the name
5 Angelito pending--and that his client (Georgia-Pacific) has
6 requested TWO extensions from the Trademark Office to oppose the
7 application. (Exhibit 4, Letter from RM to AW, dated Jan. 31,
8 2008) (Exhibit 5, print-out from Trademark Office showing Georgia
9 Pacific applied for two ~~ext~~ensions to respond to Tae's General
10 Toys' application). Under the circumstances, I do not understand
11 why Georgia-Pacific would request two extensions from the Trade-
12 mark Office but request expedited discovery in this
13 matter--especially since we are cooperating and will continue to
14 cooperate by shortly voluntarily providing Plaintiff with in-
15 voices and custom forms that will reflect the amount of invento-
16 ry.

17 7. Plaintiff's document request is overbroad and oppressive in
18 that it seeks "tax documents." (No. 3) The information relating
19 to sales and orders is available in a much less intrusive
20 form--in fact Defendant has already provided this information
21 under oath.

22 I declare under penalty of perjury under the laws of the
23 United States and California that the foregoing is true and
24 correct.

25 Executed this February 3, 2008 at Glendale, California.

26
27 RM MARTINETT
28

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GEORGIA-PACIFIC CONSUMER
PRODUCTS LP, a Delaware limited
partnership,

Plaintiff,

vs.

LEE'S GENERAL TOYS, INC., a California
corporation, JOHN LEE, an individual; and
DOES 1-10,

Defendants.

) DECLARATION OF
) JOHN LEE IN REBUTTAL
) TO PLAINTIFF'S
) REPLY
)
) Date: January 28, 08
) Time: 2:30 pm
) Judge: Hon. J. Houston

DECLARATION OF JOHN LEE IN REBUTTAL TO PLAINTIFF'S REPLY

I, John Lee, hereby declare:

1. I am a defendant in the present action, along with Lee's
General Toys, Inc. I am the president of Lee's General Toys and
am familiar with the day to day operations

2. In 2003 Lee's General Toys received a valid California

1 trademark in the name Angelite. Under this name, the company
2 sells and markets bathroom tissue paper in California ~~and other~~
3 ~~states and Mexico~~. This trademark has been challenged by Georgia-
4 Pacific which claims a superior right in the Angel Soft trade-
5 mark.

6 3. In the last few days, I have ordered and supervised the
7 removal of ^{59,520 TL}~~51,250~~ outer wrappings from our entire stock of Ange-
8 lite tissue paper. These represented all the stock in our ware-
9 house, including a recent shipment from China. There is no more
10 Angelite tissue paper in our warehouse and none is on order from
11 China.

12 4. Until this action is completed, I have no intention, nor
13 does Lee's General Toys have any intention, of importing, dis-
14 tributing, selling, shipping, purchasing, moving, transporting
15 and/or exporting any tissue paper with the Angelite wrapping.

16 5. At present, the ^{59,880 TL}~~51,250~~ white tissue rolls are stored in our
17 warehouse in Vernon. Lee's General Toys, Inc. has a valid trade-
18 mark in the name Swan which is not in controversy. We respectful-
19 ly reserve the right to re-wrap the ^{59,520 TL}~~51,250~~ white tissue rolls
20 with Swan wrapping--or to market the white tissue rolls without
21 any wrapping. Since the name Swan is not in controversy, and
22 since plain white rolls are generic, Defendants respectfully
23 submit that they should be allowed to market these items (and
24 avoid financial hardship).

25 6. Although Defendants believe that they have a valid trade-
26 mark in the name Angelite, they have no intention of further
27 marketing any items under the name Angelite long as the
28 present lawsuit is pending.

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1 I declare under penalty of perjury that the foregoing is true
2 and correct under the laws of the United States and the state of
3 California.

4 Executed this January ²³~~22~~, 2008 at Vernon, California

True

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PHILLIP C. KAZANJIAN
RONALD MARTINETTI
WENDY L. COFFELT

TELEPHONE
(818) 241-1011
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(818) 241-2193

January 25, 2008

Mr. Adam Welland
Latham & Watkins
12636 High Bluff Drive, Suite 400
San Diego, California 91230-2071 VIA FAX AND US MAIL

Re: Georgia-Pacific Consumer Products v. Lee's Gen. Toys

Dear Adam:

Thank you for your letter of January 22. Please note that I am providing the following information as part of our respective settlement efforts and hope that it will assist the parties to move closer to a resolution.

The manufacturer is RunHui Paper Co., Ltd., 40 Hubin North Road, Zhong Shan, China (Tel. 011-76-08780488); the agent in China is Shantou Kid Toys Co., Ltd., Room 203, 5nd Building, Jinguan Yuan, Wenguan Road Chenghai Dist. Shantou City, Guangdong, China (Tel. 011-86-7545853523). Some of my clients sales are walk-ins. Most of the items, however, are sold through five distributors or retail outlets: 1) Kensco, 2602 37th Street, Vernon, Cal. 90053, 2) Double Bargain, Inc., 3033 Bandini Blvd., Vernon, Cal. 90023; 3) TCI Supply Co., 121 E. 18th Street, No. 3, Los Angeles, Cal. 90013; 4) Jorge Acevas Contreras, 2170 Coronado Avenue, San Diego, Cal. 92154; 5) TBA Mexican Trade Grocery, 1045 Bay Blvd., No. A, Chula Vista, Cal. 91900.

My understanding is that 6 containers were imported. The total inventory was valued at \$39,955. Of the 6 containers, 59,520 rolls remained--and the Angelite wrapping has been removed. The 233,280 rolls that were sold were sold at approximately 19 cents a roll; the mark-up was about 3 cents per roll. When the overhead is factored in, there was no real profit.

Mr. Lee has stated in his declaration that he has no intention of selling any Angelite tissue as long as this case is pending; as I have pointed out, we have taken this position as a gesture of good faith and not as an admission of liability.

Yours sincerely,
Ron
Ronald Martinetti

EXHIBIT 2

PHILLIP C. KAZANJIAN
RONALD MARTINETTI
WENDY L. COFFELT

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January 29, 2008

Mr. Adam Welland
Latham & Watkins
12636 High Bluff Drive, Suite 400
San Diego, California 91230-2071 VIA FAX AND US MAIL

Re: Georgia Pacific v. Lee's Gen. Toys

Dear Adam:

Thank you for your letter of January 28. As you know, we have provided you with much of this information, viz., the distribution network, the current inventory, and the fact that there are no future shipments. In fact, this latter information was provided to the court under oath. Also, your client knows that my client has applied for a federal trademark and, as I understand it, objected. There would be no rational reason why your client would need expedited discovery to discover whether any trademark applications are pending when this is public information. Moreover, we both know that any request for expedited discovery should have properly been made in the TRO (which was denied).

However, as a courtesy, we are willing to continue to cooperate with your client, though we strongly believe that there is no probability that Georgia-Pacific will prevail in its request for a preliminary injunction.

I intend to meet with my client tomorrow and will fax you a follow up letter (again as a courtesy) Thursday.

Please note that we will strongly oppose any request for expedited discovery as unnecessary and a misuse of the discovery process.

Yours sincerely,

Ronald Martinetti
Ronald Martinetti

cc: ML

EXHIBIT 3

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PHILLIP C. KAZANJIAN
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January 31, 2008

Mr. Adam Welland
Latham & Watkins
12636 High Bluff Drive, Suite 400
San Diego, California 91230-2071 VIA FAX AND US MAIL

Dear Adam:

Thank you for talking to me today. As I explained, my client firmly believes that there is no need for expedited discovery and that we have been cooperating as a courtesy (even though your client's request for a TRO was denied). This cooperation is in an effort to minimize the expenses to both parties.

With regard to your letter of January 28, 2008, please note that we have already provided you with the distribution network. As you also know, my client has destroyed the outer wrapping of the 59,520 Angelite tissue papers--and there is no additional inventory. The total number of rolls sold is 233,280. However, there is no way of my client's knowing how many of these remain on the shelves.

As for the trademark, a federal trademark was applied for (Angelite 500) in 2003 but this was abandoned by my client. A trademark was then applied for (Angelito) in early 2007. This application was opposed by Christine Cason of Georgia Pacific and the company was given additional time to file opposition papers.

Again, I believe that Georgia Pacific's request for tax documents is totally overbroad and oppressive (especially given the cooperation we have extended to you and your client). However, Michelle is continuing to search for invoices and we shall provide them as a courtesy.

As you know it is my position that your company cannot trademark the word angel--and since your case hangs on that, the preliminary and permanent injunction will be denied.

Yours sincerely,

Ron Martinetti

Ronald Martinetti

cc;ML

EXHIBIT 4



United States Patent and Trademark Office

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v1.4

Extension of Time

Number: 77109596

Filing Date: 12/20/2007

Status: Not Instituted

Status Date: 12/20/2007

Opposition #:

Defendant

Name: Lee's General Toys, Inc.

Correspondence: 3rd Alternative

P.O. Box 1818

Rancho Cucamonga, CA 91729-1818

Serial #: 77109596

Application File

Application Status: Request For Extension of Time to File Opposition

Mark: ANGELITO

Potential Opposer

Name: Georgia Pacific Consumer Products LP

Correspondence: Christine M. Cason

Georgia-Pacific Consumer Products LP

133 Peachtree Street NE

Atlanta, GA 30303

cmccason@gapac.com

Granted To Date: 04/09/2008

Prosecution History

#	Date	History Text
2	12/20/2007	<u>EXTENSION OF TIME GRANTED</u>
1	12/20/2007	<u>INCOMING - EXT TIME TO OPPOSE FILED</u>

Results as of 01/30/2008 07:16 PM

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<http://ttabvue.uspto.gov/ttabvue/v?qt=adv&procstatus=All&pno=&propno=77109596&q> 1/30/2008

EXHIBITS

COPY

PROOF OF SERVICE

I am employed in Los Angeles County, California; I am over the age of eighteen years and not a party to the within action. My business address is 520 East Wilson Glendale, California 91206.

On this date I served Declaration of R. Martinetti Opposing Plaintiff's Ex Parte Application for Expedited Discovery

by personal delivery (to the address below)

x

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at Glendale, California, addressed to:

Stephen Swinton, Esq.
Latham & Watkins
12636 High Bluff Drive, Suite 400
San Diego, California 92130-2071
Tel. 858-523-5400
FAX 858-523-5450

and via FAX to counsel for Georgia-Pacific Consumer Prod. (x)

(x) BY MAIL I sealed and placed such envelope for collection and mailing to be deposited in the mail on the same day in the ordinary course of business at Glendale, California. I am readily familiar with our law firm's practice of collecting and processing correspondence and documents for mailing. They are deposited with the U.S. Postal Service on the same day as dated, in the ordinary course of business.

(State) I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

(x) (Federal)

The papers are also to be filed via e-mail.

I declare under penalty of perjury of the state of California that the foregoing is true and correct.

Executed this February 3, 2008 at Glendale, California 91206